

GENERAL AGREEMENT ON TARIFFS AND TRADE

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ORIGINAL: ENGLISH

CONTRACTING PARTIES
Sixth Session

SUMMARY RECORD OF THE TWENTY-FIRST MEETING

Held at the Palais des Nations, Geneva, on
Tuesday, October 23, 1951 at 3 p.m.

Chairman: Mr. Johan MELANDER (Norway)

- Subjects discussed:
1. Belgian Tax (Allocation familiale)
 2. Report of Working Party 4 on Arrangements for Tariff Negotiations.
 3. Submission of Memorandum concerning the Declaration of the Contracting Parties on the suspension of obligations by the United States and Czechoslovakia.

1. Belgian Tax (Allocation familiale)

M. CASSIERS (Belgium) recalled that at a previous meeting the representatives of Norway and Denmark had presented their governments' complaint against the administration of the Belgian Law of 4 August 1930 with respect to their countries. He regretted that, despite his government's sincere wish to meet the desires of Norway and Denmark, he was not yet in a position to give as favourable a reply as he had expected. He did not wish to place the discussion on a legal basis but wanted to reach a solution as between friendly nations, but a complication had arisen which would make it impossible to resolve the matter at the present session. Doubts had in fact been raised as to the compatibility of the Law of 4 August 1930 with Article I of the Agreement, which might require the submission to the Belgian Parliament of Articles 130 to 132 of the Law of 4 August 1930 for amendment.

The Belgian government therefore thought that it would be more opportune to review the whole question within the framework of their obligations under the General Agreement and in the light of their review, decide whether to meet the demands of the two governments by administrative action or submit to their Parliament proposals for the amendment of Articles 130 to 132 of the law.

Mr. BORRESEN (Norway) expressed his delegation's disappointment at the delay with which they were faced and suggested it would not be possible to put an end to the admitted discrimination against his country by administrative action. They did not doubt that the Belgian government would do its utmost

to settle the matter promptly and the Norwegian delegation would therefore not pursue the matter further at the moment; they would, however, request that the item be retained on the agenda of the Contracting Parties for the Seventh Session.

Mr. SVEINBJØRNSSON (Denmark) referred to a statement by the representative of Belgium to the effect that it was not yet clear in the mind of the Belgian government whether the problem could be appropriately dealt with by administrative action and recalled that in the case of another Scandinavian country, whose social legislation was much the same as that of Denmark, a solution had been found without resort to the Belgian Parliament. He therefore felt that a similar step could be taken with regard to Denmark and expressed the hope that this would be done and that a satisfactory solution would be found long before the Seventh Session.

Mr. TREU (Austria) pointed out that his government had not intervened in the discussion hitherto, although they were in a position similar to that of Norway and Denmark with respect to the Belgian law under consideration, because they had expected a solution to be found before the end of the session. In view of the statement of Mr. Cassiers, however, he wished to reserve the right of his government to put their case to the Belgian government.

Mr. TUOMINEN (Finland) also pointed out that the Belgian government had been approached on this matter and that discussions on this matter were to be held in two months' time.

Mr. CASSIERS (Belgium) thanked the representatives of Norway and Denmark for accepting the delay and assured them that their request for urgent action had been noted. While he was making his previous statement he had received information from his government that there appeared to be a good prospect of dealing with the problem by administrative steps similar to those taken for other countries. He added that he had noted the remarks of the representatives of Austria and Finland which he would transmit to his government, but as each case had to be dealt with specifically he would advise that these two countries present the details of their particular cases to the Belgian government. He expressed the hope that satisfaction would be given to all the interested parties well before the Seventh Session.

The Contracting Parties agreed to accept the statement of the Belgian representative to the effect that the matter would be investigated further and that the latter hoped to be able to settle the matter promptly. Note was also taken of the statements of the representatives of Austria and Finland and it was decided to retain the question on the agenda for the Seventh Session.

2. Report of Working Party 4 on Arrangements for Tariff Negotiations
(GATT/CP.6/34 and Corr.1)

Mr. DI NOLA (Italy) introducing the report explained that Part 1 of the Report contained general considerations to explain to the Contracting Parties the significance of the recommended procedures and to make them aware of certain

questions. The second part contained the procedures which had been devised for negotiations between contracting parties and governments wishing to accede to the General Agreement and for negotiations amongst contracting parties. The third part contained two model protocols to give effect to the two types of negotiations.

It had been the aim of the Working Party to devise simpler procedures than those which had been followed in the three large tariff negotiations which had been held. They had borne in mind that the situation was not exactly the same in the case of negotiations for the accession of countries of small commercial importance as in the case of countries having widespread commercial interests. It could in fact be expected that a small number of contracting parties would want to negotiate with acceding governments which had limited trading interests. In the case, however, of a commercially important country it was possible that in view of considerations of commercial policy some contracting parties might want the Contracting Parties to hold a discussion regarding the accession of that country and in particular whether negotiations to this end could in fact conveniently take place under the proposed procedures. The report explained these difficulties and provided for examination by the Contracting Parties of the application of a particular country, should such an examination be requested by three or more countries. In urgent cases it was felt that a special session could be called for the purpose in accordance with normal procedure.

He wished further to call attention to the recognition by the Working Party that contracting parties were free to negotiate between themselves outside the framework of the General Agreement. If, however, the intention was that the results should be incorporated in the Schedules annexed to the Agreement, it was desirable that appropriate procedures be established. Although it was appropriate that two participating governments should be able to give effect to the schedules of concessions by their own signatures alone, the incorporation of the concessions in the Agreement was of interest to all. Accordingly the model protocol provided that it would be open for signature by all contracting parties.

He wished to bring to the attention of the Contracting Parties the provisions for the withholding or withdrawal of concessions in the event that the protocol were signed by one of the parties but not by the other or others. Doubts had been expressed as to whether a contracting party thus withholding concessions should give notification to all other contracting parties and afford them the opportunity to consult. Some doubt had been expressed on this point as it might be construed as giving a right of compensation to a contracting party which had made no concessions on the basis of the concessions withdrawn or withheld. The Working Party had, however, concluded that such a construction could not be placed on these provisions and that, on this understanding the Annecy and Torquay precedents should be followed.

He also explained that the Working Party had provided for the situation in which negotiations such as those which were under consideration might be concluded long before a session of the Contracting Parties. To meet this

contingency the Working Party had drafted model protocols for use by the parties to such negotiations, the results of which would, by the use of the model protocols, be incorporated in the General Agreement, without waiting for the convening of a session of the Contracting Parties.

Mr. LEDDY (United States) expressed his thanks to the Chairman and members of the working party and to the Secretariat for the excellent work which had been done on the American proposal.

Mr. CISNEROS (Cuba), while expressing his great interest in the subject, regretted that there had not been sufficient time to submit the report to his government and, being without instructions, he had to reserve their position.

He was particularly concerned with the implications of the provisions for negotiations between contracting parties and would wish to obtain clarification. It was not clear why in Rule 2 no precise period had been fixed for the time to elapse between the submission of request lists and the opening of actual negotiations. It was, in fact, important for a contracting party to examine such request lists in order to determine whether it had a material interest in the negotiations before the negotiations actually started. He also believed that the right to participate in such discussions was not well established and would like further clarification. He felt it should also be made unequivocally clear whether "supplementary negotiations" related to the negotiations covered by Rules 1 and 2 or, specifically, to those under Rule 3. Finally, he did not see how results could be put into force without consulting the Contracting Parties. He knew that the working party had devoted considerable time to the problem and asked the reason why no solution had been found. As regards the action under Article XXV: 5(a) he thought that all the implications should be carefully studied and that no hasty decisions should be taken.

Mr. DHARMA VIRA (India) wished to record the dissatisfaction of his delegation with Rule 2 of Part II-A of the Report. Considering the number of contracting parties to the General Agreement, they felt that the number suggested was too small. The whole purpose of the exercise was to facilitate tariff negotiations and the limitation to three of the number of contracting parties who could demand a general discussion on the accession of any particular country would not be in accordance with that aim. Under Article XXIII a country could accede if it obtained a two-thirds majority, and whilst one could understand that any objectors should have an opportunity to express their views before the Contracting Parties, the number of such objections required to bring the matter before the Contracting Parties should be increased to say six or seven. This would be a compromise between the number suggested and the minority of the Contracting Parties which was required to defeat a request for accession. He did not feel that there was much value in the contention that in urgent cases a special session could be called in accordance with the rules of procedure, because it did not appear to him likely that agreement would be found to call a special session for the purpose.

Mr. DI NOLA (Italy), in reply to the representative of India, repeated that the working party recognised the arbitrary character of the figure chosen but he wished to point out that even in choosing such a small figure they were in fact deviating from the precise rule that applications for accession should be examined by the Contracting Parties.

In reply to the question raised by the representative of Cuba, he admitted that the fixing of a time limit under Rule 3 might have been useful but he did not think that any prejudice would result from the omission. He felt that the question would be even less important in the case of negotiations between contracting parties.

Mr. DHARMA VIRA (India) said that as there were no support for his proposal he would not press it further.

Mr. CISNEROS (Cuba) pointed out that there did not appear to be any special reason for not fixing a specific period for the submission of request lists and suggested that this should be done.

Mr. DI NOLA (Italy) saw no difficulty in accepting the proposal of the delegate of Cuba but recalled that the working party had been mainly concerned with giving the greatest measure of elasticity to the procedures.

The EXECUTIVE SECRETARY shared the view of Mr. Di Nola and saw no practical utility in specifying a period. The parties would consider among themselves the date on which they would exchange request lists and he had no doubt that such a date would be sufficiently advanced to afford to any contracting party the opportunity to determine whether or not it was materially affected by the scope of the negotiations.

On a suggestion of Mr. CISNEROS (Cuba) in connection with paragraph 6 of Part II-A, the EXECUTIVE SECRETARY proposed to insert in the last line of paragraph 6, after the word "contracting parties", the words: "as required by Article XXXIII of the General Agreement".

The amendment was accepted by the Contracting Parties.

On Rule 2 of Part II-B a discussion again arose on the question of the time which was to elapse between the submission of request lists and the beginning of negotiations.

Agreement was reached through an amendment to Rule 2, proposed by Mr. LEDDY (United States) to delete from the first line of the paragraph the words: "As far as possible" and to substitute therefor: "At least thirty days".

All sections of the Report having been approved separately, the EXECUTIVE SECRETARY pointed out that although it was not the practice of the Contracting Parties to take a formal vote on reports of working parties when there was a clear majority for the proposals, they were here confronted with a special case. As indicated on page 5 of the report, once the concession

had entered into force by the signature of the negotiating contracting parties the schedules would be regarded as Schedules to the General Agreement. Accordingly the provisions of Article II would attach to the concession including those obligations which were defined in relation to the date of the General Agreement. Following the precedent of Torquay that date was changed in the model protocol to the date of the conclusion of the negotiations in question. It was, however, not admissible that such a modification of the General Agreement should be made by two or a small number of contracting parties. It was therefore necessary to waive in accordance with the provisions of Article XXV:5(a) the obligations of the contracting parties concerned to the extent that the obligations in the model protocol might in any respect be less onerous than those under Article II of the Agreement. It was, therefore, suggested that the Rules and the model protocols should be approved by a sufficient majority of the contracting parties to satisfy the voting requirements of Article XXV:5(a).

The Rules and model protocols were approved by 31 votes in favour, none against. The delegate of Cuba reserved the position of his government.

Mr. TAUBER (Czechoslovakia) announced that he intended to present to the Contracting Parties a memorandum regarding action by his government on the withdrawal of concessions from the United States.

The CHAIRMAN invited the delegate of Czechoslovakia to submit his memorandum and the matter could be taken up at a later meeting.

The meeting rose at 7 p.m.

